

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 598

5 By: Senator Bledsoe
6 By: Representatives Pilkington, L. Johnson, D. Ferguson
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE DEFINITIONS OF "HEALTH BENEFIT
10 PLAN" AND "PROFESSIONAL RELATIONSHIP" WITHIN THE
11 TELEMEDICINE ACT; TO AUTHORIZE ADDITIONAL INSURANCE
12 REIMBURSEMENT FOR TELEMEDICINE VIA TELEPHONE; TO
13 PROHIBIT HEALTH BENEFIT PLAN FINANCIAL INCENTIVES; TO
14 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.
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Subtitle

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18 TO AMEND THE DEFINITIONS WITHIN THE
19 TELEMEDICINE ACT; TO AUTHORIZE ADDITIONAL
20 INSURANCE REIMBURSEMENT FOR TELEMEDICINE;
21 TO PROHIBIT HEALTH BENEFIT PLAN FINANCIAL
22 INCENTIVES; AND TO DECLARE AN EMERGENCY.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Arkansas Code § 17-80-402(4), concerning the definition of
28 a "professional relationship" as used under the Telemedicine Act, is amended
29 to read as follows:

30 (4) "Professional relationship" means at a minimum a
31 relationship established between a healthcare professional and a patient
32 when:

33 (A) The healthcare professional has previously conducted
34 an in-person examination of the patient and is available to provide
35 appropriate follow-up care, when necessary, at medically necessary intervals;

36 (B) The healthcare professional personally knows the



1 patient and the patient’s relevant health status through an ongoing personal
2 or professional relationship and is available to provide appropriate follow-
3 up care, when necessary, at medically necessary intervals;

4 (C) The treatment is provided by a healthcare professional
5 in consultation with, or upon referral by, another healthcare professional
6 who has an ongoing professional relationship with the patient and who has
7 agreed to supervise the patient’s treatment, including follow-up care;

8 (D) An on-call or cross-coverage arrangement exists with
9 the patient’s regular treating healthcare professional or another healthcare
10 professional who has established a professional relationship with the
11 patient;

12 (E) A relationship exists in other circumstances as
13 defined by rule of the Arkansas State Medical Board for healthcare
14 professionals under its jurisdiction and their patients; ~~or~~

15 (F) A relationship exists in other circumstances as
16 defined by rule of a licensing or certification board for other healthcare
17 professionals under the jurisdiction of the appropriate board and their
18 patients if the rules are no less restrictive than the rules of the Arkansas
19 State Medical Board; or

20 (G) A healthcare professional, who is licensed in Arkansas
21 and has access to a patient’s personal health record that is maintained by a
22 physician, other licensed healthcare professional, or local educational
23 agency, using real-time interactive audio technology, including the
24 telephone;

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26 SECTION 2. Arkansas Code § 17-80-403(c), concerning the establishment
27 of a professional relationship, is amended to read as follows:

28 (c) “Professional relationship” does not include a relationship
29 between a healthcare professional and a patient established only by the
30 following:

- 31 (1) An internet questionnaire;
- 32 (2) An email message;
- 33 (3) Patient-generated medical history;
- 34 (4) ~~Audio-only communication, including without limitation~~
35 ~~interactive audio;~~
- 36 (5) Text messaging;

1 service that would otherwise be covered by the health benefit plan.

2 (b) As with other medical services covered by
3 a health benefit plan, documentation of the engagement between patient and
4 provider via audio-only communication shall be placed in the medical record
5 addressing the problem, content of conversation, medical decision-making, and
6 plan of care after the contact.

7 (c) The documentation described in subdivision
8 (7)(C)(i)(b) of this section is subject to the same audit and review process
9 required by payers and governmental agencies when requesting documentation of
10 other care delivery such as in-office or face-to-face visits;

- 11 (ii) A facsimile machine;
- 12 (iii) Text messaging; or
- 13 (iv) ~~Electronic mail systems~~ Email.

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15 SECTION 5. Arkansas Code § 23-79-1602(e), concerning prohibitions on
16 the coverage for telemedicine services, is amended to read as follows:

17 (e) A health benefit plan shall not impose on coverage for healthcare
18 services provided through telemedicine:

19 (1) An annual or lifetime dollar maximum on coverage for
20 services provided through telemedicine other than an annual or lifetime
21 dollar maximum that applies to the aggregate of all items and services
22 covered;

23 (2) A deductible, copayment, coinsurance, benefit limitation, or
24 maximum benefit that is not equally imposed upon all healthcare services
25 covered under the health benefit plan; ~~or~~

26 (3) A prior authorization requirement for services provided
27 through telemedicine that exceeds the prior authorization requirement for in-
28 person healthcare services under the health benefit plan; or

29 (4) A requirement or financial incentive of any kind for a
30 covered person to choose any commercial telemedicine service provider or a
31 restricted network of telemedicine-only providers rather than the covered
32 person's regular doctor or provider of choice.

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34 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
35 General Assembly of the State of Arkansas that due to the coronavirus 2019
36 (COVID-19) pandemic, the Governor removed barriers to the use of telemedicine

1 in an attempt to combat the coronavirus 2019 (COVID-19) pandemic; that these
2 emergency actions will expire when the emergency proclamation expires, which
3 could occur quickly; that on February 26, 2021, the Governor announced that
4 the public health emergency was extended but that the Governor was going to
5 lift some regulations related to the pandemic; that removing barriers to the
6 use of telemedicine ensured that the citizens of Arkansas had the services
7 that they needed, and removing these emergency proclamations regarding
8 telemedicine would greatly disadvantage and harm the citizens of Arkansas who
9 are utilizing telemedicine for healthcare services; that this bill maintains
10 the policy changes allowed under the emergency proclamation, which would
11 allow the citizens of Arkansas greater access to the use of telemedicine for
12 healthcare services; and that this act is immediately necessary to ensure
13 that the citizens of Arkansas have access to healthcare services provided via
14 telemedicine. Therefore, an emergency is declared to exist, and this act
15 being immediately necessary for the preservation of the public peace, health,
16 and safety shall become effective on:

- 17 (1) The date of its approval by the Governor;
- 18 (2) If the bill is neither approved nor vetoed by the Governor,
19 the expiration of the period of time during which the Governor may veto the
20 bill; or
- 21 (3) If the bill is vetoed by the Governor and the veto is
22 overridden, the date the last house overrides the veto.

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